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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KAMREE MILLER,

Plaintiff,

V.

FRANK MERANDA, Patrol Officer for California Highway Patrol; KEERAT LAL, Sergeant for California Highway Patrol,

Defendants.

Case No.: 18-cv-07323-EMC

**DEFENDANT FRANK MERANDA'S
ANSWER TO PLAINTIFF'S AMENDED
COMPLAINT**

DEMAND FOR JURY TRIAL

Dept: Courtroom 5
Judge: Hon. Edward M. Chen

Complaint Filed: December 4, 2018
Trial Date: None set

Defendant Frank Meranda answers plaintiff's first amended complaint as follows:

1. Answering paragraph 1: This paragraph contains matters other than factual allegations requiring an affirmative response. Admit plaintiff is a mother. Answering defendant lacks sufficient information or belief regarding plaintiff's current residence and on that basis denies it. As to any other factual allegation requiring an affirmative response, deny.

2. Answering paragraph 2: This paragraph contains matters other than factual allegations requiring an affirmative response. Admit Lal was a supervisor. As to any other factual allegation requiring an affirmative response, deny.

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1 3. Answering paragraph 3: This paragraph contains matters other than factual
2 allegations requiring an affirmative response. As to any factual allegation requiring an
3 affirmative response, deny.

4 4. Answering paragraph 4: Admit plaintiff “seeks compensation for her anguish
5 and injunctive relief,” but deny she has suffered any “anguish” as a result of answering
6 defendant’s conduct and deny she is entitled to injunctive relief.

7 5. Answering paragraph 5: Admit.

8 6. Answering paragraph 6: Admit.

9 7. Answering paragraph 7: Admit.

10 8. Answering paragraph 8: Answering defendant lacks sufficient information or
11 belief to admit or deny the allegation and on that basis denies it.

12 9. Answering paragraph 9: This paragraph contains matters other than factual
13 allegations requiring an affirmative response. Admit answering defendant was a sworn law
14 enforcement officer employed by the California Highway Patrol.

15 10. Answering paragraph 10: This paragraph contains matters other than factual
16 allegations requiring an affirmative response. Admit Lal was a sworn law enforcement officer
17 employed by the California Highway Patrol.

18 11. Answering paragraph 11: Answering defendant lacks sufficient information or
19 belief to admit or deny the allegation regarding who plaintiff accompanied to the CHP station
20 and on that basis denies the allegation. As to all other factual allegations, admit.

21 12. Answering paragraph 12: Admit plaintiff encountered answering defendant at
22 the designated counter. Deny remaining allegations.

23 13. Answering paragraph 13: This paragraph contains matters other than factual
24 allegations requiring an affirmative response. Admit the forms did not ask for an email
25 address. Admit answering defendant asked for plaintiff’s email address. Deny all remaining
26 factual allegations requiring an affirmative response.

27 14. Answering paragraph 14: Deny.

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1 15. Answering paragraph 15: Admit answering defendant called plaintiff.
2 Answering defendant is without sufficient information or belief to admit or deny that his calls
3 came from different CHP numbers and on that basis denies it. Deny remaining allegations.

4 16. Answering paragraph 16: Admit answering defendant emailed plaintiff. Admit
5 answering defendant used the email address plaintiff gave him. Deny that obtaining plaintiff's
6 email address was in anyway related to the official forms plaintiff completed.

7 17. Answering paragraph 17: Admit.

8 18. Answering paragraph 18: Admit.

9 19. Answering paragraph 19: Admit.

10 20. Answering paragraph 20: Answering defendant lacks sufficient information or
11 belief to admit or deny the allegations and on that basis denies them.

12 21. Answering paragraph 21: Admit.

13 22. Answering paragraph 22: Deny.

14 23. Answering paragraph 23: Deny.

15 24. Answering paragraph 24: Admit plaintiff would answer calls from answering
16 defendant. Deny plaintiff answered the calls to end answering defendant's "incessant calling."
17 Deny intentionally calling from different numbers. As to the remaining factual allegations,
18 answering defendant lacks sufficient information or belief to admit or deny and on that basis
19 denies them.

20 25. Answering paragraph 25: Deny plaintiff was not interested in a personal
21 relationship with answering defendant. As to all other factual allegations, answering defendant
22 lacks sufficient information or belief to admit or deny and on that basis denies them.

23 26. Answering paragraph 26: Answering defendant denies making sexual
24 comments toward plaintiff, and denies harassing plaintiff. As to the remaining factual
25 allegations, answering defendant lacks sufficient information or belief to admit or deny the
26 allegations and on that basis denies them.

27 27. Answering paragraph 27: Admit answering defendant emailed plaintiff and that
28 she would respond. Deny answering defendant "demand[ed] to know where she was at and

1 what she was doing.” As to the remaining factual allegations, answering defendant lacks
 2 sufficient information or belief to admit or deny and on that basis denies them.

3 28. Answering paragraph 28: Admit answering defendant sent plaintiff an email on
 4 January 21, 2015 from his CHP email address but deny it contained nude pictures.

5 29. Answering paragraph 29: Admit that the photographs answering defendant sent
 6 to plaintiff on January 21, 2015 were taken in a public bathroom while answering defendant
 7 was on duty.

8 30. Answering paragraph 30: This paragraph contains matters other than factual
 9 allegations requiring an affirmative response. Admit emailing plaintiff after sending pictures
 10 and offering to resend. Admit e-mailing and calling plaintiff. Deny any remaining factual
 11 allegations requiring an affirmative response.

12 31. Answering paragraph 31: This paragraph contains matters other than factual
 13 allegations requiring an affirmative response. Admit answering party stopped emailing and
 14 calling plaintiff in May 2015.

15 32. Answering paragraph 32: Admit plaintiff was at a shopping center around May
 16 28, 2017 in Brentwood, California. As to the remaining factual allegations, answering
 17 defendant lacks sufficient information or belief to admit or deny and on that basis denies them.

18 33. Answering paragraph 33: Admit plaintiff was at a clothing store for kids. As to
 19 the remaining factual allegations, answering defendant lacks sufficient information or belief to
 20 admit or deny and on that basis denies them.

21 34. Answering paragraph 34: Deny answering defendant “followed [plaintiff]
 22 across the parking lot and into the clothing store.” Deny answering defendant “confronted”
 23 plaintiff. Admit answering defendant and plaintiff hugged, but deny it was uninvited.

24 35. Answering paragraph 35: Answering defendant lacks sufficient information or
 25 belief to admit or deny the allegation and on that basis denies it.

26 36. Answering paragraph 36: Admit answering defendant stayed for a brief time
 27 and then left. Admit answering defendant emailed and called plaintiff after running into each
 28 other at the mall. Answering defendant denies calling plaintiff two to five times a day. As to

1 the remaining factual allegation, answering defendant is without sufficient information or
 2 belief to admit or deny and on that basis denies it.

3 37. Answering paragraph 37: This paragraph contains matters other than factual
 4 allegations requiring an affirmative response. Admit answering defendant did not contact
 5 plaintiff after receiving a June 12, 2017 email purportedly from plaintiff's husband. Deny the
 6 email "told [answering defendant] to stop contacting [plaintiff]."

7 38. Answering paragraph 38: Answering defendant lacks sufficient information or
 8 belief to admit or deny the allegations and on that basis denies them.

9 39. Answering paragraph 39: Answering defendant admits discussing with Lal on
 10 July 30, 2017 the June 12, 2017 email from plaintiff's "husband" during Lal's interview of
 11 answering defendant in connection with Lal's investigation of answering defendant's email
 12 usage. Deny ever discussing the email with Lal prior to July 30, 2017. As to all other factual
 13 allegations, answering defendant lacks sufficient information or belief to admit or deny and on
 14 that basis denies them.

15 40. Answering paragraph 40: Answering defendant lacks sufficient information or
 16 belief to admit or deny and on that basis denies them.

17 41. Answering paragraph 41: Answering defendant lacks sufficient information or
 18 belief to admit or deny and on that basis denies them.

19 42. Answering paragraph 42: Answering defendant lacks sufficient information or
 20 belief to admit or deny and on that basis denies them.

21 43. Answering paragraph 43: Answering defendant lacks sufficient information or
 22 belief to admit or deny and on that basis denies them.

23 44. Answering paragraph 44: Answering defendant lacks sufficient information or
 24 belief to admit or deny and on that basis denies them.

25 45. Answering paragraph 45: This paragraph contains matters other than factual
 26 allegations requiring an affirmative response. Answering defendant denies he conducted any
 27 "illegal acts with respect to [plaintiff]." Answering defendant denies that Lal did not perform
 28 an investigation.

1 46. Answering paragraph 46: Admit.

2 47. Answering paragraph 47: Admit the February 14, 2018 letter acknowledged
3 receipt of the claim but deny that is all the letter provided.

4 48. Answering paragraph 48: Admit that a response to plaintiff's claim was due
5 March 5, 2018. Deny no response was provided. Deny plaintiff proceeds with her action
6 pursuant to Government Code section 945.6(2).

7 49. Answering paragraph 49: This paragraph relates to a claim for relief that has
8 been dismissed and thus no response is required.

9 50. Answering paragraph 50: This paragraph relates to a claim for relief that has
10 been dismissed and thus no response is required.

11 51. Answering paragraph 51: This paragraph relates to a claim for relief that has
12 been dismissed and thus no response is required.

13 52. Answering paragraph 52: Answering defendant incorporates his responses to
14 paragraphs 1-51.

15 53. Answering paragraph 53: Deny.

16 54. Answering paragraph 54: Answering defendant incorporates his responses to
17 paragraphs 1-53.

18 55. Answering paragraph 55: This paragraph relates, in part, to a claim that has
19 been dismissed and thus no response to that part is required. As to any part requiring a
20 response, deny.

21 56. Answering paragraph 56: Answering defendant incorporates his responses to
22 paragraphs 1-55.

23 57. Answering paragraph 57: Deny.

24 58. Answering paragraph 58: Answering defendant incorporates his responses to
25 paragraphs 1-57.

26 59. Answering paragraph 59: Deny.

27 60. Answering paragraph 60: Deny.

28 61. Answering paragraph 61: Deny.

62. Answering paragraph 62: Answering defendant incorporates his responses to paragraphs 1-61.

63. Answering paragraph 63: Deny.

64: Answering paragraph 64: This paragraph contains matters other than factual allegations requiring an affirmative response. As to any factual allegations requiring an affirmative response, deny.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's amended complaint fails to state facts sufficient to constitute a cause of action against answering defendant.

SECOND AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that if held responsible for the injuries and damages to plaintiff, if any, plaintiff was at fault and any award to plaintiff must be reduced in proportion to the fault attributed to him.

THIRD AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that the injuries suffered by plaintiff, if any, were the actual and proximate result of the conduct of others and answering defendant's liability, if any, is limited in direct proportion to that percentage of fault actually attributed to answering defendant.

FOURTH AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that plaintiff is barred from pursuing any state law causes of action against him based on plaintiff's failure to comply with the claims filing requirements of the California Government Code.

FIFTH AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that plaintiff has failed to mitigate damages.

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SIXTH AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that he is immune from liability under 42 U.S.C. section 1983 under the doctrine of qualified immunity.

SIXTH AFFIRMATIVE DEFENSE

Answering defendant is informed and believes that he cannot be liable to plaintiff under 42 U.S.C. section 1983 because his conduct was not under color of law.

SEVENTH AFFIRMATIVE DEFENSE

Answering defendant currently has insufficient knowledge or information upon which to determine whether additional affirmative defenses may be available to it which have not yet been asserted in this answer, and therefore reserve the right to assert additional affirmative defenses upon subsequent discovery, investigation and analysis.

WHEREFORE, defendant prays that:

1. Plaintiff take nothing by their complaint;
 2. Defendant be awarded costs of suit; and
 3. For further relief as the court deems proper.

Dated: May 7, 2019

Daley & Heft, LLP

By: /s/*Lee H. Roistacher*

Lee H. Roistacher
Attorneys for Defendant
Frank Meranda

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, defendants demand a jury trial.

Dated: May 7, 2019

Daley & Heft, LLP

By: /s/ Lee H. Roistacher

Lee H. Roistacher
Attorneys for Defendant
Frank Meranda